

**STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING**

Department of Public Health

Petition No. 2000-0179-010-046

vs.

Michael Lynch, RN, Lic. No. E55201
Respondent

MEMORANDUM OF DECISION

Procedural Background

The Board of Examiners for Nursing (hereinafter "the Board") was presented by the Department of Public Health (hereinafter "the Department") with a Statement of Charges and Motion for Summary Suspension dated October 25, 2000. (Dept. Exh. 1). The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Michael Lynch (hereinafter "respondent") which would subject respondent's Registered Nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that respondent's continued nursing practice presented a clear and immediate danger to public health and safety. On November 1, 2000, the Board ordered, pursuant to its authority under §4-182(c) and §19a-17(c) of the General Statutes of Connecticut, that respondent's Registered Nurse license be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges. (Dept. Exh. 1).

The Board issued a Notice of Hearing dated November 1, 2000, scheduling a hearing for November 15, 2000. (Dept. Exh. 1). Department Exhibit 1 indicates that the Notice of Hearing and Statement of Charges were sent by certified mail and by first class mail to respondent's address of record. Service by deputy sheriff was attempted but unsuccessful. (Dept. Exh. 1; Tr., pp. 2-4).

The hearing took place on November 15, 2000, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Respondent was not present during the hearing and was not represented by counsel. (Tr., p. 2).

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

Findings of Fact

Based on the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Respondent was issued Registered Nurse license number E55201 on September 10, 1992. Respondent was the holder of said license at all times referenced in the Statement of Charges. (Dept. Exh. 1-C).
2. At all relevant times, respondent was employed as a Registered Nurse at the Red Cross, Farmington, CT. (Dept. Exh. 1).
3. On or about June 22, 2000, respondent abused or utilized to excess methadone. (Dept. Exh. 1).
4. Respondent's abuse of methadone does, and/or may, affect his practice as a registered nurse. (Dept. Exh. 1-B).
5. On March 18, 1998, the Board ordered a Consent Order in Petition number 970922-010-072 (hereinafter "the Order") that placed respondent's Registered Nurse license on probation for a period of four years. Such disciplinary action was based upon respondent's admitted diversions of Percocet, Lortab and injectable morphine, and falsification of controlled substance records. (Dept. Exh. 1-B).
6. Said Order specifically provided that respondent shall not obtain or use controlled substances, legend drugs or alcohol in any form unless prescribed or recommended for a legitimate therapeutic purpose by a licensed health care professional authorized to prescribe medications. (Dept. Exh. 1-B).
7. The Department made reasonable efforts to provide notice of the hearing to respondent. (Dept. Exh. 1).

Conclusions of Law and Discussion

In consideration of the above Findings of Fact, the following conclusions are rendered: Michael Lynch held a valid Registered Nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges provided sufficient legal notice as mandated by §4-177(a) and (b), and §4-182(c) of the General Statutes of Connecticut. The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as §19a-9-1 through §19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges, and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of his license as required by §4-182(c) of the General Statutes of Connecticut.

The Department bears the burden of proof by a preponderance of the evidence in this matter.

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The General Statutes of Connecticut §20-99 provides in relevant part:

(a) The Board of Examiners for Nursing shall have jurisdiction to hear all charges of conduct which fails to conform to the accepted standards of the nursing profession brought against persons licensed to practice nursing. After holding a hearing . . . said board, if it finds such person to be guilty, may revoke or suspend his or her license or take any of the actions set forth in section 19a-17 . . . (b) Conduct which fails to conform to the accepted standards of the nursing profession includes, but is not limited to, the following . . . (2) illegal conduct, incompetence or negligence in performing usual nursing functions . . . (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals . . . (6) fraud or material deception in the course of professional services or activities . . .

Respondent did not submit an Answer to the Statement of Charges. Pursuant to §19-9-20 of the Regulations of Connecticut State Agencies the Board deems the allegations in the Statement of Charges to be admitted.

Based on its findings, the Board concludes that respondent's conduct as alleged in the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes violations of §20-99(b) (2), (5), and (6) of the General Statutes of Connecticut. Therefore, respondent's Registered Nurse license is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

Order

Pursuant to its authority under §19a-17 and §20-99 of the General Statutes of Connecticut, the Board of Examiners for Nursing hereby orders the following:

For Count One of the Statement of Charges, respondent's license is revoked. For Count Two of the Statement of Charges, respondent's license is revoked.

Respondent's Registered Nurse license number E55201 is revoked effective March 21, 2001.

The Board of Examiners for Nursing hereby informs respondent, Michael Lynch, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Wethersfield, Connecticut this 21st day of March 2001.

BOARD OF EXAMINERS FOR NURSING

By Nancy J. Bufano

CERTIFICATION

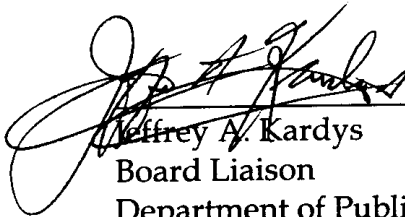
I hereby certify that, pursuant to Connecticut General Statutes §4-180(c), a copy of the foregoing Memorandum of Decision was sent this 22nd day of March 2001, by certified mail, return receipt requested, and first class mail to:

Michael Lynch
232-F Washington Road
Woodbury, CT 06798

Certified Mail 70993220000974681577

and by Inter-Departmental Mail to:

Stanley K. Peck, Director
Legal Office
Department of Public Health
410 Capitol Avenue, MS #12LEG
Hartford, CT 06134-0308



Jeffrey A. Kardys
Board Liaison
Department of Public Health
Public Health Hearing Office